



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

09/523,984

03/13/2000

Kristoffer Aberg

3660-20

6334

23117

7590

04/14/2005

NIXON & VANDERHYE, PC  
1100 N GLEBE ROAD  
8TH FLOOR  
ARLINGTON, VA 22201-4714

EXAMINER

NGUYEN, HUY D

ART UNIT

PAPER NUMBER

2681

DATE MAILED: 04/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/523,984

Applicant(s)

ABERG, KRISTOFFER

Examiner

Huy D Nguyen

Art Unit

2681

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 07 December 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) 8-13 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 8-13 are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments filed 12/07/2004 have been fully considered but they are not persuasive.

Regarding claim 1, the applicants submitted that the claimed invention allows the user to customize the dynamic menu according to the user's preferences. The examiner states that the preceding limitation is not found in claim 1. The applicants also submitted that the claimed invention provides that the contents of the dynamic menu can be modified in response to manual inputs of the user. The examiner states that this limitation is not found in claim 1. Claim 1 claims that the contents of the dynamic menu may or may not (interpretation of "may be") be modified by the user. Claim 1 does not clearly point out that the modification of the dynamic menu is an immediate response to the direct manual inputs from the user.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-2, 6-7 are rejected under 35 U.S.C. 102(e) as being anticipated by Terrasson (U.S. Patent No. 6,061,576).

Regarding claims 1-2, 6-7, Terrasson teaches a portable communication apparatus having a

Art Unit: 2681

display, a user-controlled input device (see Fig. 1), a memory, a controller and a hierarchical menu system stored in the memory, the menu system comprising a plurality of menus, including top-level menus and sub-level menus (see column 3, lines 1-38), and a plurality of menu items under respective menus (e.g., tree menu), the controller being arranged to present individual menus with menu items on the display, receive selection commands from a user through the user-controlled input device, and in response, perform functions related to the presented menus and menu items, the memory of the apparatus further including a dynamic menu, the contents of which may be modified by the user, wherein the dynamic menu is either a top-level menu or a sub-level menu in the hierarchical menu system and includes a menu item associated with a function for modifying a number of available dynamic menu items for controlling the functionality of the apparatus (col. 1, lines 44-60; col. 7, lines 45-58).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 3-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Terrasson (U.S. Patent No. 6,061,576) in view of Isomursu et al. (U.S. Patent No. 6,400,958).

Regarding claims 3-5, Terrasson does not mention about adding/deleting a selected menu item to/from the dynamic menu. However, the preceding limitation is taught in Isomursu (col. 11, line 65 – col. 12, line 10). It would have been an obvious to one having ordinary skill in the

Art Unit: 2681

art to apply the teaching of Isomursu et al. to the teaching of Terrasson to provide convenience for users.

***Election by Original Presentation***

6. Newly submitted claim 8 is directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: claim 8 has introduced new subject matter that is: the dynamic menu may be modified according to preferences of the user. Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claim 8 is withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Newly submitted claims 9-13 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: independent claim 9 has introduced new subject matter that is: receiving menu modification commands in response to user input, and in response, modifying the dynamic menu. Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 9-13 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

***Conclusion***

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Huy D Nguyen whose telephone number is 703-305-3283. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Emmanuel Moise can be reached on 703-306-0003. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2681

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*HN*

Huy Nguyen  
04/05/2005

*ef. moise*  
EMMANUEL L. MOISE  
SUPERVISORY PATENT EXAMINER